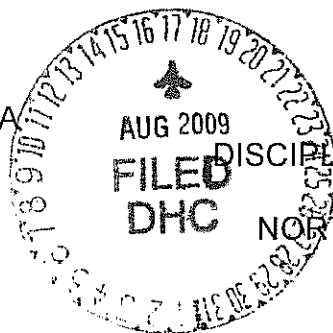


NORTH CAROLINA
WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
09 DHC 21

THE NORTH CAROLINA STATE BAR,)
Plaintiff)

v.)

ROBERT K. TROBICH, Attorney,)
Defendant)

COMPLAINT

Plaintiff, complaining of Defendant, alleges and says:

1. Plaintiff, the North Carolina State Bar (hereinafter "State Bar"), is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 84 of the General Statutes of North Carolina, and the Rules and Regulations of the North Carolina State Bar promulgated thereunder.

2. Defendant, Robert K. Trobich (hereinafter "Trobich" or "Defendant"), was admitted to the North Carolina State Bar on September 9, 1988 and is, and was at all times referred to herein, an Attorney at Law licensed to practice in North Carolina, subject to the rules, regulations, and Rules of Professional Conduct of the North Carolina State Bar and the laws of the State of North Carolina.

Upon information and belief, the State Bar alleges:

3. During the times relevant herein, Defendant actively engaged in the practice of law in the State of North Carolina and maintained a law office in Charlotte, Mecklenburg County, North Carolina.

4. Defendant represented Tiffany J. Salomon in a civil action in the United States District Court for the Western District of North Carolina captioned Tiffany Salomon v. County of Lincoln, NC and W. Hal Klutz, Civil No. 5:05CV220-H (hereafter "the civil action").

5. On or about June 26, 2007 Defendant was properly served by opposing counsel with Interrogatories and Requests for Production of Documents (hereafter "the discovery requests").

6. Defendant did not contact Ms. Salomon concerning her obligation to respond to the discovery requests.

7. Defendant took no action regarding the discovery requests.

8. On or about September 19, 2007 the United States Magistrate Judge issued an order compelling Ms. Salomon to respond to the discovery requests by October 19, 2007.

9. Defendant was properly served with the order compelling discovery responses.

10. Defendant did not contact Ms. Salomon concerning the court's order compelling her to respond to the discovery requests.

11. Defendant took no action regarding the order compelling response to the discovery requests.

12. On or about October 26, 2007 Defendant was properly served by opposing counsel with a Motion to Dismiss For Plaintiff's Failure to Obey Court Order and For Plaintiff's Failure to Prosecute (hereafter "the motion to dismiss").

13. Defendant did not contact Ms. Salomon concerning the motion to dismiss.

14. Defendant took no action regarding the motion to dismiss.

15. On or about November 15, 2007 the United States Magistrate Judge granted the motion to dismiss and dismissed Ms. Salomon's civil action with prejudice.

16. Defendant did not notify Ms. Salomon that her case had been dismissed.

17. In or about March 2008, in response to Ms. Salomon's inquiries, Defendant told Ms. Salomon that one of the defendants in the civil action had made an offer of \$10,500.00 to settle the case.

18. Defendant's assertion that the opposing party had offered to settle the case was false.

19. Ms. Salomon agreed to settle her civil action for that amount. Defendant told Ms. Salomon that he would be in touch with her the next week after he received the funds.

20. Defendant did not contact Ms. Salomon the next week.

21. Thereafter Ms. Salomon left numerous phone messages, emails and text messages for Defendant to contact her. Defendant did not respond to Ms. Salomon's messages.

22. In July 2008 Ms. Salomon left a message for Defendant informing him that she had learned that her case had been dismissed.

23. In response to Ms. Salomon's July 2008 message, Defendant told Ms. Salomon that he had her settlement money and arranged to meet with her to give her the money.

24. Defendant told Ms. Salomon that he had dealt directly with one of the opposing parties to negotiate a settlement to obtain the funds rather than through opposing counsel.

25. Defendant's assertions that he settled the case with the opposing party and had settlement funds from the opposing party were false.

26. On or about July 30, 2008 Defendant gave Ms. Salomon a check for \$10,500.00 drawn on Defendant's operating account that he represented were the settlement funds provided by the opposing party in the civil action.

27. Defendant's representation that the \$10,500.00 was from the opposing party was false.

28. The \$10,500.00 provided by Defendant to Ms. Salomon were Defendant's own funds.

29. Defendant had Ms. Salomon sign a document he told her was a release of all claims Ms. Salomon had against the opposing party in exchange for the settlement funds.

30. Defendant's assertion that the document was a release of claims against the opposing party was false.

31. The document Defendant had Ms. Salomon sign was a release of claims Ms. Salomon had against Defendant.

32. Defendant did not advise Ms. Salomon in writing that she could or should consult with another attorney before signing the release and did not allow

a reasonable time in which she would have opportunity to consult independent counsel.

33. Ms. Salomon notified the disciplinary department of the North Carolina State Bar about Defendant's conduct in her case. A grievance file was opened and assigned file number 08G822.

34. On September 22, 2008, pursuant to 27 N.C.A.C. 1B §.0112(b), the Chair of the Grievance Committee sent Defendant a Letter of Notice accompanied by a Substance of the Grievance.

35. Defendant received the Letter of Notice and its attachment by certified mail on October 2, 2008.

36. Pursuant to 27 N.C.A.C. 1B §.0112(c) Defendant was required to respond to the Letter of Notice within 15 days of receipt.

37. Defendant requested and was granted an extension of time until November 3, 2008 to respond to the Letter of Notice.

38. Defendant failed to respond to the Letter of Notice by November 3, 2008.

39. On November 12, 2008, Defendant delivered to the North Carolina State Bar a response to the Letter of Notice.

40. In his response to the North Carolina State Bar, Defendant asserted that he informed Ms. Salomon he had made an error in the case and that he negotiated with Ms. Salomon a settlement of his liability in the amount of \$10,500.00. Specifically, Defendant's response stated: ". . . I contacted Ms. Salomon, told her there was a problem with the case, . . . as there had been an error (mine), but also asked what she would consider a fair settlement of the matter *from me*." (emphasis added).

41. Defendant's statements to the North Carolina State Bar that he informed Ms. Salomon the \$10,500.00 was in settlement of any claims Ms. Salomon may have had against Defendant for his liability to her were false.

THEREFORE, the State Bar alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C.G.S. §84-28(b)(2) in that Defendant violated one or more of the Rules of Professional Conduct in effect at the time of the actions as follows:

a. by failing to take action regarding the discovery requests, the order compelling response to discovery requests, and the motion to dismiss, Defendant

did not act with reasonable diligence and promptness in representing a client in violation of Rule 1.3 and failed to make a reasonably diligent effort to comply with a legally proper discovery request by an opposing party in violation of Rule 3.4(d)(2);

b. by failing to inform or advise Ms. Salomon concerning her obligation to respond to discovery requests, the court's order compelling response to the discovery requests, and by failing to inform Ms. Salomon of the motion to dismiss and that the case had been dismissed, Defendant failed to keep his client reasonably informed about the status of the representation and failed to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation in violation of Rule 1.4(a)(3) and (b);

c. by failing to respond to Ms. Salomon's numerous phone messages, emails and text messages, Defendant failed to promptly comply with reasonable requests for information in violation of Rule 1.4(a)(4);

d. by falsely asserting to Ms. Salomon that the opposing party had offered to settle her case, that he had in fact settled the case on her behalf, that he had the settlement funds in hand, that the \$10,500.00 he gave her was the settlement from the opposing party, and that the document she signed was a release of claims against the opposing party, Defendant engaged in conduct involving dishonesty, fraud, deceit and/or misrepresentation in violation of Rule 8.4(c);

e. by giving Ms. Salomon \$10,500.00 of his own funds and having her sign a release of her claims against him, Defendant settled a claim or potential claim for liability with an unrepresented client without advising her in writing of the desirability of seeking legal counsel or providing a reasonable time for her to seek legal counsel in violation of Rule 1.8(h)(2);

f. by failing to respond to the Letter of Notice within the time provided by rule as extended, Defendant knowingly failed to respond to a lawful demand for information from a disciplinary authority in violation of Rule 8.1(b); and

g. by making false statements in his response to the North Carolina State Bar, Defendant knowingly made a false statement of material fact to the Bar in connection with a disciplinary matter in violation of Rule 8.1(a), engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of rule 8.4(c) and knowingly misrepresented facts or circumstances surrounding allegations of misconduct in violation of N.C.G.S. §84-28(b)(3).

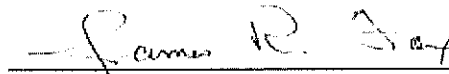
WHEREFORE, the State Bar prays that

1. Disciplinary action be taken against Defendant in accordance with N.C.G.S. §84-28 (c) and 27 N.C.A.C. 1B §.0114 as the evidence on hearing may warrant,

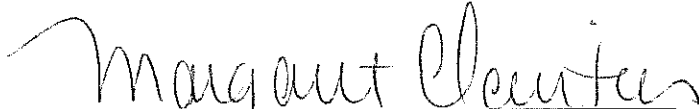
2. Defendant be taxed with the costs permitted by law in connection with this proceeding, and

3. For such other and further relief as is appropriate.

This the 17 day of August, 2009.



James R. Fox, Chair
Grievance Committee



Margaret Cloutier, Deputy Counsel
Attorney for Plaintiff
The North Carolina State Bar
P. O. Box 25908
Raleigh, NC 27611
(919) 828-4620